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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,747	11/21/2003	Benny Souder	50277-2343	1778
42425 7590 06/29/2007 HICKMAN PALERMO TRUONG & BECKER/ORACLE 2055 GATEWAY PLACE SUITE 550 SAN JOSE, CA 95110-1089			EXAMINER FLEURANTIN, JEAN B	
			ART UNIT 2162	PAPER NUMBER
			MAIL DATE 06/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/718,747	Applicant(s) SOUDER ET AL.	
	Examiner JEAN B. FLEURANTIN	Art Unit 2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 18-31 and 40-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 18-31 and 40-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/27/2007 & 5/15/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This is in response to Applicant(s) arguments submitted on 3/29/2007.

The following is the current status of claim(s):

Claims 10-17 and 32-39 have been withdrawn.

Claims 1-9, 18-31 and 40-44 remain pending for examination.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 5/15/2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Applicant's arguments filed 3/29/2007 have been fully considered but they are not persuasive for the following reasons section I (rejection maintained and repeated below) and section II (response to argument).

Claim Rejections - 35 USC § 102

- I. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 18-28 and 40-44 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. in 6,272,503 issued to Bridge, Jr. et al., ("Bridge").

As per claim 1, Bridge discloses "a method for automatically provisioning data in a distributed database system" (i.e., automatically importing (transporting) to target database; see col. 14, lines 2-26), the method comprising the computer-implemented steps:

"a database server causing a tablespace to be transported from a first file system to a second file system" (i.e., transferring tablespace between two databases; see col. 9, lines 41-50); and
"after transporting said tablespace to said second file system, said database server importing said tablespace into a local database managed by said database server" (i.e., transferring tablespace from source database to target database; see col. 9, lines 44-50 and Fig. 12a).

As per claim 2, Bridge discloses "a database server causing a tablespace to be transported and the step of said database server importing said tablespace are both performed in response to invocation of a routine" (see col. 9, lines 46-50).

As per claim 3, Bridge discloses "said routine is written in code that conforms to a database language and that may be executed by a database server" (i.e., executing by processor instructions; see col. 5, lines 32-39).

As per claim 4, Bridge discloses "importing includes attaching said tablespace to said local database" (see col. 9, lines 44-46).

As per claim 5, Bridge discloses "the tablespace is attached to another database before and during performance of the step of said database server causing a tablespace to be transported" (see col. 10, lines 16-21).

As per claim 6, Bridge discloses "the tablespace is offline before and during performance of the step of said database server causing a tablespace to be transported" (see col. 10, lines 21-21).

As per claim 18, in addition to claim 1, Bridge further discloses "wherein said set of one or more files store data for a database" (i.e., collecting one or more datafile; see col. 9, lines 23-24).

As per claim 19, the limitations of claim 19 are similar to claim 4, therefore, the limitations of claim 19 are rejected in the analysis of claim 4, and this claim is rejected on that basis.

As per claim 20, in addition to claim 1, Bridge further discloses "metadata describing database objects and commands for inserting data into the database objects, wherein the step of provisioning includes importing said database data into said database by executing commands" (see col. 3, lines 25-34).

As per claim 21, in addition to claim 1, Bridge further discloses "said set of one or more files includes backup files created by a recovery manager, wherein the step of provisioning includes causing said recovery manager to create said database managed by said database server from said backup files" (see col. 6, line 64 to col. 7, line 5).

As per claim 22, in addition to claim 1, Bridge further discloses "an archive log stores data recording changes to said database made after creating the backup files, wherein the step of provisioning further includes changing said database to reflect changes recorded in said archive log" (see col. 6, line 64 to col. 7, line 5).

As per claim 23, in addition to claim 1, Bridge further discloses "a computer-readable medium carrying one or more sequences of instructions which, when executed by one or more processors, causes the one or more processors to perform the method" (i.e., instructions which, when executed by one or more processors; see col. 5, lines 5-11).

As per claims 24-28 and 40-44, the limitations of claims 24-28 and 40-44 are computer-readable medium carrying one or more sequences of instructions, which are similar to the method claims 1-9 and 23, therefore, the limitations of claims 24-28 and 40-44 are rejected in the analysis of claims 1-9 and 23, and these claims are rejected on that basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-9 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over of U.S. Patent No. in 6,272,503 issued to Bridge, Jr. et al., ("Bridge") in view of U.S. Patent No. 6,859,768 issued to 5,758,345 issued to Wang, ("Wang").

As per claim 7, Bridge discloses "importing the tablespace includes attaching a copy of the tablespace, wherein the copy is different than said tablespace" (i.e., importing and copying to target database system; see col. 13, lines 48-55 and Fig. 13a and 13b).

Bridge fails to explicitly disclose said database server provisions a synchronization mechanism that applies changes made to the tablespace to the copy. However, Wang discloses said database server provisions a synchronization mechanism that applies changes made to the tablespace to the copy (see Wang col. 14, line 59 to col. 15, line10). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of Bridge by database server provisions a synchronization mechanism that applies changes made to the tablespace to the copy as disclosed by Wang (see Wang col. 14, lines 59-66). Such a modification would allow the method of Bridge to provide a method which is portable among different database vendors, therefore, improving the reliability of automatic and dynamic of provisioning of databases.

As per claims 8 and 9, the limitations of claims 8 and 9 are similar to claim 7, therefore, the limitations of claims 8 and 9 are rejected in the analysis of claim 7, and these claims are rejected on that basis.

As per claims 29-31, the limitations of claims 29-31 are computer-readable medium carrying one or more sequences of instructions, which are similar to the method claims 1-9 and 23, therefore, the limitations of claims 29-31 are rejected in the analysis of claims 1-9 and 23, and these claims are rejected on that basis.

Response to Applicant' Remarks

II. Objection – Duplicate Claim:

Applicant's arguments, page 10, paragraph 3, (section: Objection – Claim), with respect to the objections of claims 1 and 18, have been fully considered and are persuasive. Thus, the objections of claims have been withdrawn.

Rejection under 35 U.S. 101:

Applicant stated, page 11, paragraph 3, that "Claim 1 requires importing said tablespace into a local database managed by said database server. A database, to which data has been imported, and which is managed by a database server, is clearly a useful and tangible thing; Therefore, claim 1 requires a useful and tangible result; for similar reasons, claim 18 requires a useful and tangible result." Thus, arguments are persuasive. Therefore, the 35 U.S. 101 rejection of claims has been withdrawn.

Rejection based on 35 U.S. 102:

In response to applicant's arguments, page 12, paragraph 1, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., transporting a database server that imports a tablespace into a local database managed by the database server) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 1, however, requires: transporting a table space from first file system to second file system.

Rejection based on 35 U.S. 103:

In response to applicant's arguments, page 13, last three paragraphs, section (rejections based on 35 USC 103), against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Further, the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, the claimed "synchronization mechanism" is not defined in any way to remove the reference from reading upon the claims. Wang discloses said database server provisions a synchronization mechanism that applies changes made to the tablespace to the copy (see Wang col. 14, line 59 to col. 15, line 10). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of Bridge by database server provisions a synchronization mechanism that applies changes made to the tablespace to the copy as disclosed by Wang (see Wang col. 14, lines 59-66). Such a modification would allow the method of Bridge to provide a method which is portable among different database vendors, therefore, improving the reliability and the accuracy of the automatic and dynamic of provisioning of databases.

In response to applicant's arguments, page 14, paragraph 3, "Wang and Bridge, alone or in combination, fail to teach features of claim 7, and therefore fail to teach all the features of claim 7." The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bridge discloses "a method for automatically provisioning data in a distributed database system" (i.e., automatically importing (transporting) to target database; see col. 14, lines 2-26), the method comprising the steps:

"a database server causing a tablespace to be transported from a first file system to a second file system" (i.e., transferring tablespace between two databases; see col. 9, lines 41-50); and

"after transporting said tablespace to said second file system, said database server importing said tablespace into a local database managed by said database server" (i.e., transferring tablespace from source database to target database; see col. 9, lines 44-50 and Fig. 12a).

Furthermore, Bridge discloses a set of tablespaces forming a partition of and containing the set of datafiles; see col. 3, lines 43-45.

Wherein, tablespace-relative disk pointers also facilitate the transfer of a group of datafiles within a tablespace without having to patch the disk pointers; see col. 7, lines 26-29.

Transferring data between two databases has two phases, a user a set of tablespaces, containing the desired data, from a source database. The database system gets a specification of the tablespaces to be transferred, received the name of an export or import file from the user; see col. 9, lines 35-46.

Wang discloses a database from a logical design across several nodes of a distributed processor system; col. 1, 10-12. Further, Wang discloses a tablespace, which indicates datafiles associated with that tablespace are evenly spread across all nodes; see col. 8, lines 39-42. Therefore, the combination of Bridge and Wand discloses the claimed invention.

In response to applicant's arguments, page 12, paragraph 1, "Importantly, the database server also causes the tablespace to be transported between a first and second file system." It is noted that, Bridge discloses transferring tablespace from source database to target database; see col. 9, lines 44-50 and Fig. 12a.

MPEP 2111: During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification" Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). The court found that applicant was advocating ... the impermissible importation of subject matter from the specification into the claim. See also In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same manner as a court would interpret claims in an infringement

suit. Rather, the "PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definition or otherwise that may be afforded by the written description contained in application's specification.").

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999).

For the above reasons, it is believed that the last Office Action was proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

CONTACT INFORMATION

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEAN B. FLEURANTIN whose telephone number is 571 – 272-4035. The examiner can normally be reached on 7:05 to 4:35.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN E BREENE can be reached on 571 – 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jean Bolte Fleurantin

Patent Examiner

Technology Center 2100

June 14, 2007